

REPORT - PLANNING COMMISSION MEETING
January 13, 2005

Project Name and Number: Linda Vista Project (PLN2005-00022)

Applicant: Summerhill Homes

Proposal: To consider a Conditional Use Permit to allow for the establishment of a private park, a Vesting Tentative Tract Map 7569, Subdivision Modifications, Preliminary Grading Plan and a Zoning Administrator Permit (Fence Height Exception) approval for the development of 30 single family residential dwelling units and a small private park open to the public.

Recommended Action: Approve, based on findings and subject to conditions.

Location: 2650 Bruce Street, Mission San Jose Planning Area

Assessor Parcel Number(s): 525-0351-051-00

Area: Approximately 6.1 acres

Owner: Fremont Unified School District

Agent of Applicant: Adam Tenant, Summerhill Homes

Consultant(s): Wendi Baker, HMH Engineering

Environmental Review: A Mitigated Negative Declaration was approved on December 7, 2004 for the Rezoning of the site to an R-1-6 District.

Existing General Plan: Low Density Residential – 4 to 6 DU/AC

Existing Zoning: R-1-6 (Single Family Residential)

Existing Land Use: Former Linda Vista Elementary School Site.

Public Hearing Notice: Public hearing notification is applicable. A total of 94 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Bruce Drive, Middlefield Avenue, Washington Boulevard, Ashbrook Circle, Benbow Drive, Meredith Drive, Paich Court and Alvaniace Court. The notices to owners and occupants were mailed on December 29, 2004. A Public Hearing Notice was delivered to The Argus on December 27, 2004 to be published by December 20, 2004.

Executive Summary: The applicant is requesting approval of a Condition Use Permit to allow for the establishment of a private park open to the public, a Vesting Tentative Tract Map 7569, Subdivision Modifications, a Preliminary Grading Plan and a Zoning Administrator Permit (Fence Height) to allow for the subdivision of a 6.1 acre site into 30 residential lots and 1 park lot, therefore, implementing the current zoning district that applies to the subject lands.

Background and Previous Actions: On August 26, 2004 the Planning Commission motion to approve the rezoning recommendation failed by a vote of 3 ayes, 2 nays and 2 absent, since the majority of the Planning Commission (4 Commissioners) must recommend approval of a rezoning. Several members of the public spoke in opposition to the proposed rezoning, citing concerns such as: (a) increased density; (b) loss of open space; (c) increased traffic within the neighborhood; and (d) decreased property values. The Commission also suggested that the proposed development of the site would appear to increase rather than decrease property values in the area. Some Commissioners also suggested

that due to the location of the site in relation to the proposed Irvington BART station that possibly the density should be increased from the current 4 to 6 units per acre to achieve some of the City's housing needs.

On September 3, 2004 Summerhill Homes filed a first party appeal of Planning Commission's decision. In the appeal letter, the appellant outlined various issues raised at the August 26, 2004, Planning Commission meeting, which the appellant believed justified a reversal of the Planning Commission's decision. Outlined below are the two main issues which were addressed in the appellant's letter:

Conformance with General Plan Designation: The appellant stated that "to rezone the property to R-1-6 allows for a density that is not only consistent with the General Plan of the site (Low Density Residential; 4-6 units per acre), but also a density that is consistent with the General Plan of the surrounding community".

Implementation of General Plan Goals and Policies: The appellant indicated that their proposal (rezoning to R-1-6) is more consistent with Housing Element Program 10 than the current R-1-8 zoning of the subject lands. Housing Element Program 10 states the following: "*Allow residential development at all points within the density range (e.g., 5-7 units per acre) and encourage at least the midpoint of the density range (e.g., 6 units per acre).*" The policy encourages all new residential proposals to be developed at the midpoint of the applicable density range. Therefore, the appellant indicated that the rezoning to an R-1-6 district would allow for the development of 32 units (based on a 6,000 square foot minimum lot size), achieving a density of 5.2 units per acre, whereas the R-1-8 zoning would only allow for the development of 24 units (based on an 8,000 square foot minimum lot size), therefore, only achieving a density of 4.0 units per acre.

On November 23, 2004 the City Council reviewed the First Party Appeal of the Planning Commission's decision and approved the rezoning from the R-1-8 district to the R-1-6 district by a vote of 5 ayes and 0 nays. During the Council deliberations, Adam Tenant on behalf of Summerhill Homes offered to provide two (2) lots for open space (park) purposes, therefore, proposing to develop 30 homes instead of the 32 homes. Through the discussions it was noted that the proposed park would be privately owned and maintained by the future home owners of the subdivision, but would be open to the public. The City Council also adopted the Mitigated Negative Declaration at the November 23, 2004 City Council meeting. In contrast to the Commission's public hearing, several neighbors spoke in support of the project at the City Council Meeting. No one spoke in opposition.

The City's records indicate that the former Linda Vista Elementary School was constructed in 1957 and used as a school until its closure in June 2002. A vacant school complex, a playground, sports field, basketball court and parking lot currently occupy the site. The Fremont Unified School District is in the process of selling the site to Summerhill Homes pending Summerhill receiving approval of various planning applications. The majority of the residential dwellings within the immediate neighborhood were constructed in the late 1950's and early 1960's. The conversion of the school site into a residential subdivision is the first significant land use change in the Bruce/Middlefield area since the early 1960's. It should also be noted that the City analyzed the possibility of acquiring the school site for a park, but did not pursue the acquisition because the site did not meet the criteria for City parks.

Project Description: The applicant is requesting approval of a Conditional Use Permit to allow for the establishment of a private park (open to the public), a Vesting Tentative Tract Map 7569, Subdivision Modifications, a Preliminary Grading Plan and a Zoning Administrators Permit (Fence Height) to allow for the development of a 31 lot subdivision (30 lots for single family homes and 1 lot for a private park). Four BMR units will be provided under this proposal. The attached location map identifies the subject lands, in relationship to the surrounding community. The proposed project includes the construction of a new public street into the subdivision off of Bruce Drive and the extension of Benbow Drive to connect into the subdivision. The new lots in the subdivision will range in size from approximately 8,950 to 6,050 square feet in size. The subject site borders other lands which have been developed with single family residential dwelling units.

Project Analysis:

General Plan Conformance: The existing General Plan land use designation for the project site is Low Density Residential, 4 to 6 units per acre. Identified below are some of the General Plan Goals and Policies which the proposed project implements:

Goal H 1: Conservation and enhancement of existing residential neighborhoods

Although situated on a unique lot, the proposed development is both within allowable General Plan density range and consistent with the current density range of the surrounding neighborhood, though the proposed development is more dense than the density at which the surrounding neighborhood was actually developed.

Goal H 3: Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the City.

This project includes four (4) BMR units based on the tentative tract map application, and 26 market-rate for-sale units. The varied size of both types of units provides a variety of housing opportunities for households, with at least four (4) BMR units available for moderate income households.

Policy LU 1.2: Residential density range for the site is 4 to 6 units per acre (Table 3-4).

The rezoning of the subject lands to the R-1-6 district will allow for the development of a subdivision consistent with the prescribed density range.

Policy LU 1.18 Single-family detached homes shall be proportional to their lots.

The development standards of the R-1-6 zone provide a mechanism to ensure that the single-family homes developed are proportional to the lot size.

Housing Element Program 10 Low Density Residential Lands: Rezoning and Land Use Changes: Allow residential development at all points within the density range (e.g., 4-6 units per acre) and encourage at least the midpoint of the permitted density range (e.g., 5 units per acre).

By allowing the lands to be developed with the R-1-6 district standards, a density of approximately 4.9 units per acre will be achieved which meets the above-noted policy. As noted previously in the staff report, if the lands were developed under the current R-1-8 zoning this policy could not be achieved as only 4 units per acre ($24/6.1 = 4$ units/acre) could be developed.

Inclusionary Housing: Summerhill Homes intends to meet the requirements of the Inclusionary Housing Ordinance by providing four (4) BMR units within the subdivision ($30 \times 15\% = 4.5$ units). Section 8-22172 of the FMC states that for projects with greater than 20 units, for fractional units less than 0.6%, no additional units is required, therefore, the four (4) units proposed meets the code requirement. The developer will be required to enter into a Master Developer Agreement with regards to the development of these four (4) BMR units prior to recordation of the final map for Tract 7569.

Zoning Regulations: The project site currently has a zoning designation of R-1-6, Single Family Residence District. A single-family detached residential development is a permitted use within the Single Family Residence District [Fremont Municipal Code (FCM) Section 8-2601]. The proposed subdivision is typical of the surrounding uses and development in the neighborhood.

The proposed project consists of the subdivision of one (1) parcel, totaling 6.1 acres, into 30 lots for single-family residential lots with a minimum of 6,000 square feet and one (1) lot for park purposes totaling approximately 13,825 square feet. Any development on this site (and future lots) will be required to comply with standards and guidelines adopted for the R-1-6 district, as well as all applicable building and zoning regulations. The following table represents lot and siting requirements: (see FMC Section 8-2605)

R-1-6 Zoning Lot & Siting Requirements for Project Site- 2650 Bruce Drive	
Maximum Building Height	30 feet
Minimum Lot Size	6,000 square feet
Minimum Lot Width	55 feet (corner 65 feet)
Street Frontage	35 feet

Front Yard Depth	20 feet
Interior Side – 1 Story and 2 Story	5 feet (total 12) and 6 feet (total 15)
Rear Yard Setback	25 feet
Minimum Side Street Corner	10 feet

The proposed project is in compliance with all of the above-referenced provisions.

Subdivision Modifications: The applicant is requesting approval of various Subdivision Modifications, due to the parcel configuration and subdivision design. Section 8-1800 of the FMC states the following “*Whenever the land involved in any subdivision is of such size shape or is subject to such title limitations of record or is affected by such topographical location or conditions or is to be devoted to such use that it is impossible, impractical or undesirable in a particular case for the subdivider to fully conform to the regulations contained in this chapter, the advisory agency may permit such modification thereof as may be reasonably necessary if such modifications are in conformity with the spirit and purpose of the map act and of this chapter*”. Outlined below are the modifications which have been requested by the applicant:

Lot Number	Modification Requested
Lot 8	Section 8.1515(6) of the FMC states “No lot shall have a depth of less than one hundred feet...”
Lot 15, 16, 17, 18, 19, 24, 25, & 26	Section 8.1515(8) of the FMC states “A lot depth in excess of twice the width shall be avoided wherever possible...”
Lots 15,	Section 8.1515(40) of the FMC states “No lot shall have a width less than forty-five feet at the building setback line..”
Lot 18	Section 8.1515(5) of the FMC states “Corner lots for residential use shall be platted a minimum of ten feet wider than interior lots in order to permit conformance with the required street side yard requirement of the zoning ordinance.”
Lot 9	Section 8.1515(6) of the FMC states “No lot shall have a depth of less than one hundred feet...”

Exhibit “G” identifies the modifications requested as well as outlining the applicant's justification for each modification.

Private Park: The applicant at the November 23, 2004 City Council meeting offered to provide a privately maintained park, open to the public, as part of the overall subdivision design. Therefore, subsequent to the City Council meeting where the rezoning was approved, the applicant submitted a Conditional Use Permit to allow for the establishment of the private park within the proposed subdivision, as the entire parcel was rezoned to an R-1-6 district, and a park requires a conditional use permit within a residential district. The applicant has located the open space area, identified as “Lot A” on the Tentative Tract Map 7569 (Exhibit “C”), at the terminus of the new public right-of-way. The park lot was created by combining two (2) lots that were originally proposed for residential development. The private park is proposed to be approximately 13,825 square feet in size with sufficient public road frontage along the new internal public street. This park is to be owned and maintained by the Home Owner’s Association (HOA), which will be established for the development. However, the private park will be open to the public so that adjacent residents do not lose the amenity of the park area which they enjoyed when Linda Vista was an operating school site.

Fence Height Exceptions: The applicant has submitted a Zoning Administrators Permit due to the overall height of the fence and retaining walls combined exceeding the maximum height allowed as per Section 8-22208 (eight feet in required rear yard) of the FMC. Section 8-2143.2 of the FMC defines Fence height a “*shall mean the difference in elevation between the top of a fence or hedge and the ground surface on that side of the fence or hedge on which the ground is lower. Where a fence is erected atop or within ten feet of a retaining wall on the property line or on the same lot, the height of the fence shall include the height of the retaining wall, but shall not include the height of the slope between the retaining wall and the bottom of the fence.*” The applicant has noted that in order to create a site with limited grading

extremes that successive retaining walls are required, the construction of the walls also puts the finished pad elevations lower than the adjacent homes. Therefore, when the successive retaining walls and fence height are reviewed, the combined height is in excess of the permitted maximum height of 8 feet. The Zoning Administrators Permit shall only apply to Lots 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 as identified on Exhibit "I". Page 2 of Exhibit I identifies the proposed retaining walls and fence in relations to the proposed single-family dwelling units.

City Landscape Architect Review of Proposed Tree Removal and Preservation: The proposed project is located on a site that includes a total of 32 protected mature trees. A total of 30 of these on-site trees are designated for removal. While many of these trees have potential for preservation, it is impossible to preserve them without unreasonable modifications to the proposed development. Mitigation for the removal of these trees shall be the upsizing of the street trees to 36" box size. This is consistent with the provisions of the Tree Preservation Ordinance.

The development will preserve Tree # 301 California Pepper and Tree # 320 London Plane. The applicant shall provide special tree preservation measures that may include construction of retaining walls, re-routing of utilities, modification to grading and alternative paving methods subject to staff approval. Exhibit "H" identifies the house location which Summerhill has agree to in order to save the Pepper Tree

Circulation/Access Analysis: Pedestrian and vehicular access to the project site is from Bruce Drive, Benbow Drive, and a new public cul-de-sac, Villa Savona Court. Sidewalks will be provided along all street frontages. The existing ten-foot wide "pan handle" from Middlefield Avenue was used for pedestrian access to and from the school. The project will remove this access and the land wherein the "pan handle" was located will be deeded to the properties adjacent to the "pan handle."

Street Improvements: The project site has frontage on the public streets: Bruce Drive, Benbow Drive, and Middlefield Avenue. The subdivision will also develop a new public cul-de-sac street, Villa Savona Court. The following describes the streets, the required street right-of-way dedications, and the required improvements:

Bruce Drive: Bruce Drive is an existing residential collector street with an existing right-of-way of sixty feet and a pavement width of forty-two feet. The existing pavement width exceeds current City standards for residential collector streets by two feet (42 feet existing versus 40 feet required). The project frontage has been improved, but the improvements do not meet current City standards for residential streets. Also, there is a turnout in front of the school building that was used as a loading zone. The existing street improvements consist of curb, gutter, a very narrow landscape strip with some street trees, and a sidewalk.

Because the street improvements do not meet current City standards and because most of the curb and gutter will be removed (along with the loading zone) to install driveways for the 10 lots with street frontage on Bruce Drive and to install the intersection for Villa Savona Court, the subdivider will remove all the existing curb, gutter, sidewalk, and landscape strip along the Bruce Drive frontage of the project. New curb, gutter, sidewalk, landscape strip, and street trees shall be constructed on Bruce Drive. Additionally, because the current street width exceeds the minimum required, the new curb shall be located such that the resulting pavement width is forty-one feet. The one-foot reduction street pavement will allow for the construction of five-foot wide sidewalks. Curb transitions will be required at the eastern and western end of the Bruce Drive frontage.

Benbow Drive: Benbow Drive is an existing residential cul-de-sac street that was stubbed into the southwest corner of the school property. Benbow was dedicated and improved as part of Tract 1529, a subdivision approved prior to the incorporation of Fremont. Benbow currently has a fifty-foot wide right-of-way and a thirty-two foot curb-to-curb pavement width.

In accordance with the Fremont Subdivision Ordinance, the subdivider shall dedicate street right-of-way to extend the existing public street, Benbow Drive, into the subdivision. However, to accommodate the subdivision as proposed, Benbow will be extended with a reduced right-of-way and pavement width. The Benbow extension will have a thirty-eight foot right-of-way width and a twenty-eight foot pavement width, with sidewalk adjacent to the curb (monolithic). The reduced pavement width requires the prohibition of parking on one-side of Benbow.

Benbow Drive street improvements shall include, but are not limited to, pavement, curb, gutter, sidewalk, street lights, and utilities. Transitional pavement and other improvements are required between the existing terminus of Benbow and the new extension. Due to the monolithic sidewalk, street trees along the Benbow extension shall be located in a seven-foot wide landscape and public service easement. At the driveways on the Benbow extension, the sidewalk must be setback approximately five feet in order to provide a standard driveway and maintain a two percent cross slope on the sidewalk. A sidewalk easement is required where the sidewalk extends into the private lot.

Villa Savona Court: Villa Savona Court is a new public cul-de-sac street that extends south from a new intersection with Bruce Drive. Where the extension of Benbow Drive intersects Villa Savona, a ninety degree turn is provided. Consistent with the Subdivision Ordinance, the right-of-way width of Villa Savona varies depending upon the number of units served by the cul-de-sac.

The subdivider shall dedicate street right-of-way and install complete street improvements for Villa Savona Court. The north-south section of Villa Savona shall have a right-of-way width of fifty-six feet and a pavement width of thirty-four feet. The thirty-four foot pavement width is a reduction of two feet from the City's standard thirty-six foot pavement width. The east-west section of Villa Savona shall have a right-of-way width of fifty-two feet and a pavement width of thirty-two feet. Five foot wide sidewalks shall be provided along both sides of Villa Savona, separated from the curb by a planter strip for street trees and landscaping. Villa Savona Court shall be terminated with a cul-de-sac bulb with a pavement radius of forty feet.

Middlefield Avenue: Middlefield Avenue is an existing minor residential street with a right-of-way of fifty feet. The project site includes a ten-foot wide "pan handle" which extends to Middlefield Avenue between lots 13 and 14 of Block 5, Tract 1742. The "pan handle" was a pedestrian access provided between Middlefield Avenue and the former elementary school. The subdivider intends on granting portions of the "pan handle" to the adjacent properties. Street improvements along the ten-foot Middlefield Avenue street frontage include, but are not limited to, repair of the existing sidewalk.

Public Service Easement: Public service easements shall be dedicated along the frontage of all lots within the subdivision.

Traffic: Traffic counts collected on Bruce Drive just south of Washington Boulevard indicate a total weekday volume of 932 vehicles per day on Bruce. The proposed 30 housing units would generate fewer vehicle trips than the school, using standard trip generation rates for the elementary school. The school is estimated to generate 162 daily trips, 53 AM peak-hour trips, and 35 PM peak-hour trips. Development of the school site into residential uses is estimated to generate 125 daily trips and decrease the AM peak-hour trips by 30. During the PM peak hour, the residential development is estimated to generate four fewer PM peak-hour trips than the school's PM peak-hour trips. Based on these estimated trip generation rates, the proposed project would have minimal traffic impacts on the existing roadway.

Grading/Topography: The project site is currently improved with an elementary school building, parking lot, play grounds/fields, and associated facilities. The existing building and associated improvements will be demolished to make way for the proposed residential subdivision. The site is surrounded on three sides by single-family homes, which for the most part backup to the school site. Bruce Drive bounds the northern side of the project.

The site slopes down to the northwest, with existing surface elevations which vary from 203 feet at the Middlefield Avenue "pan handle" to 165 feet in the northwest corner adjacent to Bruce Drive. Development of the elementary school and the surrounding single-family homes resulted in grading in and around the project site. Currently there is a vegetated, twenty-five percent (25%) slope up from Bruce Drive along the majority of the Bruce Drive frontage.

Grading consists of making the project conform to the existing improvements surrounding the project site and facilitating the development of flat-pad single-family homes. The project civil engineer estimated grading to be 16,500 cubic yards of cut and 3,800 cubic yards of fill, which results in estimated export of 11,200 cubic yards of soil. Because the total estimated grading of 20,300 cubic yards (cut + fill) exceeds 1,000 cubic yards, a Preliminary Grading Plan application has been submitted for Planning Commission review.

In order to develop flat-pad homes, with flat back and side yards, the developer is proposing to construct retaining walls along the western, southern, and eastern boundary of the subdivision, adjacent to the existing homes. Retaining walls are also proposed along the side yard and rear yard property lines within the subdivision. The grading plan (Exhibit "E") includes several cross sections, around and within the project site, which illustrate the proposed retaining walls.

Retaining Walls: The subdivision includes approximately 3,700 linear feet of new retaining walls. The majority of these walls are rear yard retaining walls between the new lots and the surrounding single-family lots. Wall heights vary, but the maximum proposed retaining wall height is three feet. However, the rear yard retaining walls on lots 9 through 17 and lot 30 are successive and, in most cases, are proposed in conjunction with existing retaining walls constructed by the adjacent property owners.

Successive walls are proposed in order to develop flat pad homes and keep the finished pad elevations lower than the existing homes on Middlefield Avenue, Benbow Drive, Bruce Drive, and Paich Court. On average the new building pads are approximately seven feet lower than the existing building pads. The largest grade differential is shown on lot 14, which is approximately 10 feet lower than the existing home on Middlefield. The proposed grade differential, accommodated by retaining walls and slopes between the walls, results in fence heights that exceed the maximum permissible height in the Zoning Ordinance. See "Fence Heights Exceptions" for further discussion on this issue.

Drainage: The project storm drain system connects to an existing storm drain in Bruce Drive, approximately 500 feet to the west. The existing storm drain discharges to the Alameda County Flood Control and Water Conservation District Zone 6, Line K-1 facility. Line K-1 connects to Line K, which ultimately connects to Laguna Creek (Line E). These flood control facilities are special flood hazard areas (or within the 100-year flood plain), as designated by the Federal Emergency Management Agency (FEMA). Though the project is not within a special flood hazard area, the project storm drain shall be designed such that there is no increase to the 100-year flood plain. On-site or off-site mitigation, such as flood water storage, may be required in order to mitigate any increase.

The storm drain system for the street consists of conventional curbs, gutters, curb inlets, manholes, and storm drains within the streets. The developer is also proposing the installation of an underground stormwater treatment device, which will help remove garbage, sediment, and other pollutants that are conveyed via stormwater runoff.

The drainage system for individual lots will be designed to limit the amount of directly connected impervious surfaces, in order to reduce the amount of pollutants conveyed in storm water runoff. Design details, such as disconnected roof downspouts which discharge through grassy swales, shall be incorporated into the subdivision improvement plans and building permit plans.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board. Prior to approval of the final map, the developer must demonstrate compliance with the NPDES permit requirements.

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. Residential projects will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

Waste Management: This project involves residential construction and shall be subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939). The Act requires that 50% of the waste generated in the City of Fremont be diverted from landfill sites by the year 2000. Additionally, the project is subject to the City's Source Reduction and Recycling Element (1992), an Integrated Waste Management Ordinance (1995), and a Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. The applicant is proposing individual trash and recycling receptacles for each property.

Environmental Analysis: A Mitigated Negative Declaration was approved for this project by the City Council on December 7, 2004 in conjunction with the approval of the rezoning application (Ordinance) to allow the project to be developed under the R-1-6 District. The proposed project is for the approval of a Conditional Use Permit, Vesting Tentative Tract Map 7569, Subdivision Modifications, Preliminary Grading Plan, and Zoning Administrator Permit (Fence Height). The project is a subsequent implementing activity of a previously approved project. No significant change in circumstances has occurred which would require further environmental review. The mitigation measures have been included as conditions of approval for this project and have been applied to the plan.

Response from Agencies and Organizations: No outside response or comment has been received at the time of publication of this report.

Enclosures:	Exhibit "A"	Conditional Use Permit - Park Concept Plan
	Exhibit "B"	Conditional Use Permit Conditions of Approval
	Exhibit "C"	Tentative Tract Map 7569
	Exhibit "D"	Tentative Tract Map 7569 Conditions of Approval
	Exhibit "E"	Preliminary Grading Plan
	Exhibit "F"	Preliminary Grading Plan Conditions of Approval
	Exhibit "G"	Subdivision Modifications
	Exhibit "H"	Tree Preservation Plan – Lot 1
	Exhibit "I"	Zoning Administrators Use Permit - Fence Height Exceptions
	Exhibit "J"	Zoning Administrators Use Permit Conditions of Approval

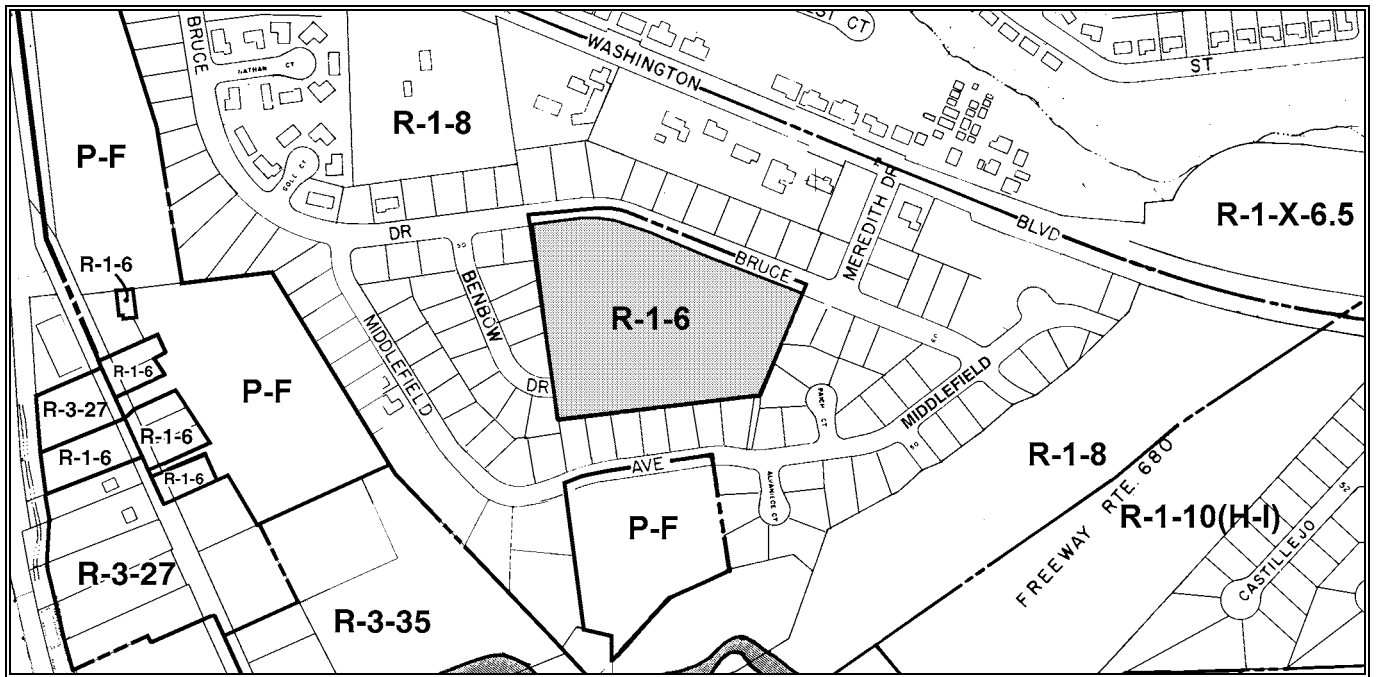
Exhibits:	Exhibit "A"	Conditional Use Permit – Park Concept Plan
	Exhibit "C"	Tentative Tract Map 7569
	Exhibit "E"	Preliminary Grading Plan
	Exhibit "G"	Subdivision Modifications
	Exhibit "H"	Tree Preservation Plan – Lot 1
	Exhibit "I"	Zoning Administrators Use Permit - Fence Height Exceptions

Recommended Actions:

1. Hold public hearing.
2. Find that the previously approved Mitigated Negative Declaration with a Certificate of Fee Exemption addresses the proposed project and no further environmental review is required.
3. Approve the Conditional Use Permit for PLN2005-00022 to allow for the establishment of a private park on land zoned for residential use, subject to findings and conditions as indicated in Exhibit "B".
4. Find PLN2005-00022 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Elements as enumerated within the staff report.
5. Find PLN2005-00022 (Vesting Tentative Tract Map 7569 and Preliminary Grading Plan), as per Exhibit "C" (Vesting Tentative Tract Map) and Exhibit "E" (Preliminary Grading Plan) fulfills the applicable requirements set forth in the Fremont Municipal Code.
6. Find that the Subdivision Modifications (Exhibit "G") are warranted because of the site configuration and design of the proposed development.

7. Approve Vesting Tentative Tract Map 7569 (as shown on Exhibit "C") subject to the findings and conditions in Exhibit "D" and Preliminary Grading Plan (as shown on Exhibit "E") subject to the findings and conditions in Exhibit "F".
8. Approve Tree Preservation Plan for Lot 1 (as shown on Exhibit "H") as it relates to the building setback in relationship to the existing tree.
9. Approve PLN2005-00022, Zoning Administrator Permit (Exhibit "I") as it relates to a fence height exception, subject to the findings and conditions in Exhibit "J".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

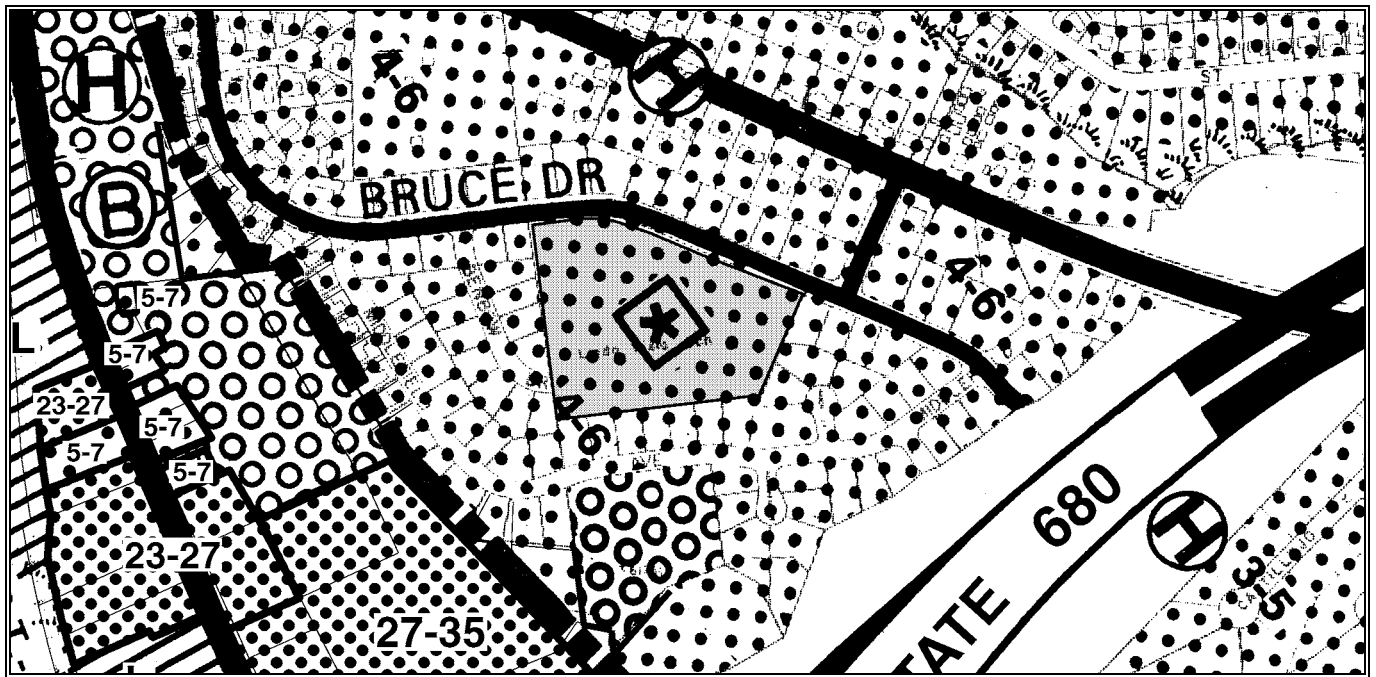


Exhibit "B"
Findings and Conditions of Approval
Conditional Use Permit for a Private Park (PLN2005-00022)
Linda Vista Project – 2650 Bruce Drive

Findings for Conditional Use Permit

1. The proposed project is consistent with intent and policies of the General Plan because the establishment of a private park open to the public at this location increases the availability of open space/recreational space for the proposed subdivision and adjacent neighborhood. In addition, parks located in residentially designated areas are vital to the daily recreational needs of the community.
2. The site is suitable and adequate for the proposed establishment of a private park because it affords an area ideally suited for a limited amount of passive recreational activities generally engaged in a mini or pocket park.
3. The proposed establishment of a private park at the site would not have a substantial adverse economic effect on nearby uses because there is no commercial aspect associated with this park. This park will provide a service and amenity to the proposed subdivision and surrounding neighborhood.
4. The proposed private park use at the site would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large because its goal is to provide recreational enjoyment for the surrounding neighborhood.
5. The proposed establishment of this private park on the site will involve new structures and improvements which will be paid for by the developer and maintained by the Home Owners Association. The design and development of this private park is being reviewed and approved through the Subdivision Process and Development Organization Review (Building Permit) to ensure it will be compatible with its surrounding area.
6. No public improvements are proposed for the establishment of this private park.

Conditions of Approval

1. The proposed project shall conform to Exhibit "A" (Park Concept Plan) and all conditions of approval set forth herein.
2. The owner shall grant to the Home Owners Association fee title to Parcel A, with a reservation of a public access easement for the benefit of the public to use Parcel A for reasonable recreation purposes.
3. The owner shall grant to the public a public access easement on, over and across Parcel A for reasonable recreation purposes; the City of Fremont may accept the public access easement for reasonable recreational purposes on behalf of the public, but the City of Fremont shall have no improvement or maintenance responsibility, nor any other liability, related to the public's use of the public access easement over the private park for reasonable recreation purposes.
4. The CC&Rs shall establish a Home Owners Association (HOA) including all parcels within the development, with duties that include assessing fees for the maintenance of Parcel A, a capital improvement fund for Parcel A improvements; and insurance for Parcel A.
5. The CC&Rs shall require the HOA to maintain and replace signs advising that the park is owned and maintained by the HOA, but open to the public for reasonable recreational use.

6. The CC&R's shall advise/disclose to the property owners that the HOA will own and maintain Parcel A, Parcel A is subject to a public access easement for reasonable recreational use, and the City of Fremont is not responsible for improvement, maintenance, or any liability arising from Parcel A or the public's use of Parcel A.
7. The CC&Rs shall not allow property owners adjacent to Parcel A to have private fence openings directly into Parcel A.
8. The applicant shall provide play equipment as part of the private park. The play equipment shall conform to that shown on Exhibit "A". A sufficient fall zone in compliance with Consumer Product Safety Commission Guidelines shall be provided for the play equipment. The play area shall have a minimum width of 45 feet.
9. The private park design shall conform to the concept plan shown on Exhibit "A". The applicant shall submit landscape plans for the park during the Tract Improvement Plan Review Process, subject to review and approval by staff. The plans shall be 100% construction plan documents showing planting, irrigation, grading, site furnishing, trash receptacles, lighting, signage, fencing and play equipment.
10. All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.

End of Conditions

EXHIBIT "D"
Findings and Conditions of Approval
Vesting Tentative Tract Map 7569 (PLN2005-00022)
Linda Vista Project – 2650 Bruce Drive

Findings for Vesting Tentative Tract Map 7569

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance, because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards as outlined in the R-1-6 zoning district.
2. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan because the proposed development conforms to the requirements of the General Plan land use designation for the site.
3. The site is physically suitable for the type and proposed density of the development, because it is surrounded by other residential uses and is designed to be compatible with its surroundings.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, because of the design and location of the development on a site that has already been improved and used as an elementary school.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems, because the review process of the subdivision has taken those concerns into consideration and has found the proposal in conformance with the City of Fremont's policies.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. Acquisition of any new easements will be required prior to the acceptance of the Final Map for this project.

Conditions of Approval

1. The project shall conform with Exhibit "C" (Vesting Tentative Map 7569), all conditions of approval set forth herein, and all conditions of approval of Zoning Administrator Permit (PLN2005-00022).
2. Parcel A shall be reserved as a private park owned and maintained by the homeowners association and open to the public for reasonable recreational use. Also see Exhibit "B".
3. Parcels B, C and D shall be deeded to the adjacent property owners, prior to or concurrently with recordation of the final map for Tract 7569.
4. Approval of this Vesting Tentative Map shall expire 24 months after approval according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Fremont Municipal Code consistent with the State Subdivision Map Act.
5. The developer shall dedicate right-of-way and install complete street improvements for Villa Savona Court within the subdivision boundary. Villa Savona Court is a new public cul-de-sac street with a right-of-way that varies between fifty-six feet and fifty-two feet, with pavement widths of thirty-four feet and thirty-two feet, respectively. Villa Savona Court shall be terminated as a cul-de-sac bulb with a pavement radius of forty feet. Street improvements include, but are not limited to, installation of pavement, curb, gutter, five-foot wide sidewalk, landscape including street trees, irrigation, streetlights, fire hydrants, and storm drain facilities. A new intersection, including curb ramps, shall be installed at Bruce Drive and Villa Savona Court. The required dedications and street improvements are subject to review and approval of the City Engineer prior to final map approval.

6. The proposed street name, Villa Savona Court, is subject to review, modification, and approval by the City prior to final map approval.
7. The developer shall dedicate right-of-way and install complete street improvements for the extension of Benbow Drive into the subdivision. The Benbow Drive extension is a public street with a reduced right-of-way width of thirty-eight feet and a pavement width of twenty-eight feet. On-street parking shall be prohibited on one side of the Benbow Drive extension. Street improvements include, but are not limited to, installation of pavement, curb, gutter, sidewalk, streetlights, "no parking" signs, fire hydrants, and storm drain facilities. Street trees shall be planted within a seven-foot wide landscape and public service easement, along the Benbow Drive extension. The required dedications and street improvements are subject to review and approval of the City Engineer prior to final map approval.
8. The developer shall remove the existing curb, gutter, sidewalk, landscape strip, and loading zone on the Bruce Drive frontage of the subdivision. New curb, gutter, five-foot wide sidewalk, landscape strip, and street trees shall be constructed along the Bruce Drive frontage. The new curb and gutter shall be located such that the resulting pavement width for Bruce Drive is reduced from its current width of forty-two feet to forty-one feet. Transitional curb, gutter, and pavement is required between the new improvements and existing improvements. The developer shall repair or replace other existing improvements, such as damaged or failed pavement, as determined by the City Engineer, prior to approval of the final map. The required street improvements are subject to review and approval of the City Engineer prior to final map approval.
9. The developer shall remove the existing improvements within the "pan handle" shown as Parcels B, C and D on the Vesting Tentative Tract Map 7569 (Exhibit C). Existing improvements include, but are not limited to, the concrete sidewalk, steel pipe gate/barrier, and existing wood and chain link fence. The existing fencing that bounds the pathway shall be removed and replaced with new fences along the new parcel boundaries.
10. The developer shall dedicate a minimum six-foot wide public service easement along the Bruce Drive and Villa Savona Court street frontages.
11. The developer shall dedicate a minimum seven-foot wide landscape and public service easement along the extension of Benbow Drive. Street trees shall be planted within this easement, subject to review and approval of the City Landscape Architect prior to final map approval.
12. Existing private easements within the subdivision boundary shall be abandoned or quitclaimed prior to approval of the final map.
13. The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.
14. All public and private storm drain inlets are to be stenciled "No Dumping - Drains to Bay" using thermoplastic stencils. Alternative inlet stencils or marking may be permitted, subject to City Engineer approval during final map and subdivision improvement plan checking.
15. All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.
16. The streetlight plan and joint trench plan shall be submitted by the applicant with the first subdivision plan check for the street improvement plans and final map. The final streetlight plan and joint trench plan shall be completed and approved prior to final map approval.
17. The developer shall request P.G. & E. to commence with the design of the utility underground work for the proposed development after the Planning Commission's approval of Vesting Tentative Tract Map 7569.

18. Precise geometry and location of all driveways shall be subject to approval of the City Engineer.
19. Any development on the newly created lots will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities, park facilities, and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance. The fees will be collected prior to building permit issuance.
20. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall defend, indemnify, and hold harmless the City of Fremont or its agents, officers, or employees from any claim, action, or proceeding against the City of Fremont or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City of Fremont, advisory agency, appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37 of the Government Code.
21. The City of Fremont shall promptly notify the applicant of any claim, action, or proceeding to attack, set aside, void, or annul, its approval and shall cooperate fully in the defense thereof.
22. All new utility service connections, including electrical and communications, shall be installed underground.
23. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
24. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
25. The developer, at time of initial sale, shall provide to the buyer information on good housekeeping of hazardous products, i.e. proper use and disposal, prohibited discharge practices, etc. Informational materials will be furnished by the City.
26. A home owners association or other mechanism acceptable to the City is to be established, formed, and is to covenant and be responsible for the maintenance of all commonly owned facilities, which are not maintained by the public utility agency; and the HOA shall specifically be required to own, maintain, and keep open for the public Parcel A. The developer is responsible for maintenance for all facilities during the subdivision warranty period.
27. The developer shall provide a complete set of subdivision improvement plans, including the park development plans, to the home owners association at the time of its formation.
28. The homeowners association shall be required to contract with a professional management firm to handle maintenance operations at the park (Parcel A).
29. In accordance with the Alameda Countywide NPDES Municipal Stormwater Permit, Order R2-2003-0021, NPDES Permit No. CAS0029831, for any property with on-site stormwater treatment measures, the property owner shall enter into a maintenance agreement for the long-term operation and maintenance of said on-site storm water treatment measures. The agreement shall run with the land and shall be referred to within the CC&Rs for the project.
30. Review of the vesting tentative tract map by the Fire Department relative to local and State Fire code is based on the material submitted. Therefore, if the map is revised prior to final submittal, the Fire Marshal should be contacted so that any changes may be properly reviewed and evaluated.
31. The owner shall grant to the Home Owners Association fee title to Parcel A, with a reservation of a public access easement for the benefit of the public to use Parcel A for reasonable recreational purposes.

32. The owner shall grant to the public a public access easement on, over and across Parcel A for reasonable recreational purposes; the City of Fremont may accept the public access easement for reasonable recreational purposes on behalf of the public, but the City of Fremont shall have no improvement or maintenance responsibility, nor any other liability, related to the public's use of the public access easement for reasonable recreational purposes.
33. The CC&Rs shall establish a Home Owners Association (HOA) including all parcels, with duties that include assessing fees for the maintenance of Parcel A, a capital improvement fund for Parcel A improvements; and insurance for Parcel A.
34. The CC&Rs shall require the HOA to maintain and replace signs advising that the park is owned and maintained by the HOA, but open to the public for reasonable recreational use.
35. The CC&R's shall advise/disclose to the property owners that the HOA will own and maintain Parcel A, Parcel A is subject to a public access easement for reasonable recreational use, and the City of Fremont is not responsible for improvement, maintenance, or any liability arising from parcel A or the public's use of Parcel A.
36. The CC&Rs shall not allow property owners adjacent to Parcel A to have private fence openings directly into Parcel A.
37. The owner shall erect and maintain a sign at the entrance to Parcel A advising that the park is owned and maintained by the homeowners of the development, but open to the public for reasonable recreation use.
38. New fences shall be constructed along the subdivision boundary as part of the subdivision improvements. The fence details shall be included in the subdivision improvement plans. The new fences shall either replace the current fences surrounding the project site, or the new fences shall be integrated with the existing fences. In order to prevent areas between fences from collecting garbage/debris and becoming a potential habitat for pests, double fencing, where a new fence is installed next to the existing fence, will only be permitted if the new and existing fences are attached. Fence details shall be subject to review and approval of staff prior to final map approval.
39. The applicant shall provide all fencing details, including but not limited to rear yard, side yard, front yard and any other type of fencing proposed within the subdivision to be reviewed and approved through the Development Organization Review process.
40. Prior to the removal of any existing structures, the applicant shall obtain a demolition permit from the City.
41. Building Permit plans shall be submitted to the Development Organization for review and approval to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code. The plans shall be in conformance with all local, state and federal fire and building regulations.
42. The project, as presented, meets the City's inclusionary zoning requirements as the applicant intent to meet the requirements of the Inclusionary Housing Ordinance through the development of four (4) Below Market Rate (BMR) Units. The applicant shall enter into a Master Developer Agreement with regards to the development of these four (4) BMR units prior to recordation of the final map for Tract 7569.
43. The California Pepper tree identified as Tree # 301 on Vesting Tentative Tract Map 7569 shall be preserved as shown in Exhibit "H". In addition Tree # 320 London Plane shall be preserved. Tree Preservation measures shall be shown on the plans in accordance with the City Tree Preservation Requirements pages 4 to 8 of the Landscape Development Requirements and Policies (LDRP) subject to Staff approval during Tract Improvement Plan Review. These measures may include modification to grading, re-routing utilities, construction of retaining walls and alternative paving methods.

44. The applicant shall provide Street trees of 36" box size along Bruce Drive, Villa Savona Court and the extension of Benbow drive planted in conformance with City Standard Tree Detail SD-34. The upsizing of these trees from the standard 24" box size to 36" box size is mitigation for the removal of 30 protected trees. The species of street tree shall be a large canopy tree subject to staff approval during Tract Improvement Plan Review.
45. All planting areas containing trees shall be free of all Utility Structures (including light standards) and other built features consistent with the spacing requirements under condition number three and City Standard Detail SD-34 City Standard Street Tree Clearances.
46. All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect.
47. The applicant shall provide play equipment as part of the neighborhood park. The play equipment shall conform to that shown on Exhibit A. A sufficient fall zone in compliance with Consumer Product Safety Commission guidelines shall be provided for the play equipment. The play area shall have a minimum width of 45 feet.
48. The park design shall conform to the concept plan shown in Exhibit A. The applicant shall submit landscape plans for the park during the Tract Improvement Plan Review subject to staff approval. The plans shall be 100% construction plan documents showing planting, irrigation, paving, grading, site furnishing, trash receptacles, lighting, signage, fences and play equipment.
49. The applicant shall investigate and remedy all known soil, and if needed, groundwater contamination (if any) prior to issuance of building permits. This may include development of a Human Health Risk Assessment (HHRA) approved by the Department of Toxic Substances Control (DTSC) and or the Regional Water Quality Control Board (RWQCB).
50. Construction activities shall be limited to 7 a.m. to 6 p.m. Monday through Friday, and 9 a.m. to 6 p.m. on Saturday. No construction shall be permitted on Sundays.

SUBDIVIDER PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.

End of Conditions

EXHIBIT "F"
Findings and Conditions of Approval
Preliminary Grading Plan – (PLN2005-00022)
Linda Vista Project – 2650 Bruce Drive

Findings for Preliminary Grading Plan

1. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.
2. The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is not in a special studies zone. There are no fault zones or evidence of landslides on the site which might be aggravated by the grading of the development. A soil study will be done and submitted to the City with the Final Map.
3. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
4. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of final map. Supplemental data and substantiation of conclusions may be required by the public works director upon city review of the reports
5. The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.

Conditions of Approval:

1. The project shall conform with staff amended Exhibit "E" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Vesting Tentative Tract Map 7569 (PLN2005-00022).
2. Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
3. Approval of this Preliminary Grading Plan shall run concurrent with the approval and subsequent extensions of Vesting Tentative Tract Map 7569 (PLN2005-00022). Approval of this Preliminary Grading Plan shall terminate upon the expiration of Vesting Tentative Tract Map 7569.
4. A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
5. The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer or Alameda County Flood Control and Water Conservation District. An erosion and sediment control plan shall be included as part of the grading plans.
6. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.

7. All cut and fill slopes shall be graded to a maximum slope of three horizontal to one vertical (3:1).
8. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
9. Prior to issuance of a grading permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed and with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
10. The applicant shall submit a detailed soils report, including recommendations regarding pavement structural sections, prepared by a qualified soils engineer registered by the State of California.
11. Grading operations shall be in accordance with recommendations contained in the required soils report and shall be supervised by an engineer registered in the State of California to do such work.
12. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
13. The project storm drain design shall be subject to review and approval of both the City Engineer and the Alameda County Flood Control and Water Conservation District. The storm drain design shall incorporate provisions to prevent increased inundation of downstream properties within the 100-year floodplain. Increased inundation includes a rise in the base flood elevations or an increase in the land area within the 100-year floodplain.
14. Minimum drainage slope on lot pads shall be 1.5%.
15. The applicant shall investigate and remedy all known soil, and if needed, groundwater contamination (if any) prior to issuance of building permits. This may include development of a Human Health Risk Assessment (HHRA) approved by the Department of Toxic Substances Control (DTSC) and or the Regional Water Quality Control Board (RWQCB).

End of Conditions

Exhibit "J"
Findings and Conditions of Approval
Zoning Administrators Permit – Fence Height (PLN2005-00022)
Linda Vista Project – 2650 Bruce Drive

Findings for Zoning Administrators Permit

1. The increase in the fence height will not create a safety hazard to pedestrians or vehicle traffic as the fences are located in the rear yards of single-family residential dwellings;
2. The fence with the increased height will not be located within the public right of way, and will be located on private property;
3. The fences do not exceed the height requirement within the triangular sight area as defined in Subsection C of Section 8-22209 of the Fremont Municipal Code, as the fence is not located within a triangular sight area;
4. The issuance of such permits is reasonable necessary, by reason of unusual or special circumstances or conditions relating to the property, such as where the application of the general provisions deprives the property owners of reasonable sized rear yards. The request for the increase in the fence height is due to the overall height of the fence and retaining walls combined, which exceed the maximum height allowed, due to the existing grading of the site and interface with adjacent residential development;
5. The fence will not substantially impair the utility or value of the adjacent properties or the general welfare of the neighborhood;
6. The appearance of the fence and retaining wall is compatible in design and appearance with the existing buildings and structures in the neighborhood;
7. The fence and planned retaining walls will not dominate to site or overwhelm adjacent properties and structures;
8. The orientation and location of the existing fence and proposed retaining walls are in proper relation to the physical characteristics of the site and the surrounding neighborhood.

Conditions of Approval

1. The project shall conform with staff amended Exhibit "I" (Fence Height Exception), all conditions of approval set forth herein, and all conditions of approval of Vesting Tentative Tract Map 7569 (PLN2005-00022).
2. The approval of the Zoning Administrators Use Permit shall apply to Lots 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 as identified on Exhibit "I".
3. New fences shall be constructed along the subdivision boundary as part of the subdivision improvements. The fence details shall be included in the subdivision improvement plans. The new fences shall either replace the current fences surrounding the project site, or the new fences shall be integrated with the existing fences. In order to prevent areas between fences from collecting garbage/debris and becoming a potential habitat for pests, double fencing, where a new fence is installed next to the existing fence, will only be permitted if the new and existing fences are attached. Fence details shall be subject to review and approval of Development Organization staff prior to final map approval.
4. The permits for the individual retaining walls shall be issued by the Development Organization.

5. This permit shall be subject to revocation or modification by the Zoning Administrator or City Council if the conditions of approval have not been fulfilled, or if the approval of the fence has resulted in a substantial adverse effect on the public health or general welfare.
6. Minor modifications requested by the applicant within 30 days of the approval of this permit, may be made to the retaining wall locations, subject to the approval of the Zoning Administrator.

End of Conditions